



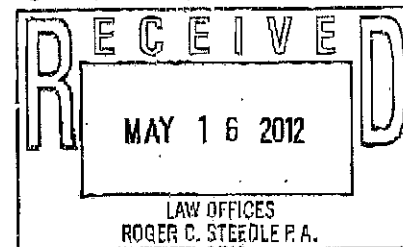
Theodore F. L. Housel
Prosecutor

OFFICE OF THE PROSECUTOR

County of Atlantic

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May 10, 2012

Harry B. Sheeler, Jr.
201 Webster Street, Apt. B-7
Woodbine, NJ 08270

Re: Galloway Township Open Public Meeting Act Complaint

Dear Mr. Sheeler:

At the request of Prosecutor Housel, I have reviewed your letter and the accompanying documents you sent on April 17, 2012, alleging violations of the Open Public Meetings Act, N.J.S.A. 10:4-6 et. seq. Based upon that review, it is my opinion that no violations have occurred.

The first issue you raised was the failure of Galloway Township to serve a "Rice notice" upon Ms. Kay, Acting Deputy Clerk. Rice v. Union Co. Regional H.S. Bd. of Ed., 155 N.J. Super. 64 (App. Div.), cert. denied, 76 N.J. 238 (1977) held that a terminated employee is entitled to reasonable notice of a public entity's intention to consider personnel matters related to that employee. Therefore, no Rice notice was required to be issued to Ms. Kay as she was not subject to any adverse employment consequence and in fact, was not even an employee at that time. Further, Rice created a right individual to the affected employee. Private citizens, or anyone other than that individual, do not have any authority to challenge the employee's rights afforded by Rice.

What was required pursuant to the Open Public Meetings Act was a closed session to discuss employment related issues. N.J.S.A. 10:4-12(b)(8). Also required before such a closed session was a resolution, adopted at a public meeting, stating the nature of subject being discussed and when the closed session discussion would be disclosed to the public. N.J.S.A. 10:4-13. Galloway Township did comply with those requirements as evidenced by the documents you attached to your correspondence.

The second issue you raised was the failure of Galloway Township to release meeting minutes, alleging they were in contempt of a court order entered as a result of a previous lawsuit. If you were a party to a lawsuit in which an order was entered and you believe a party is now in violation of that order, you should pursue an action to enforce



that order before the court that issued it. The Atlantic County Prosecutor's Office does not enforce violations of civil consent orders.

Further, with respect to the release of meeting minutes, the Open Public Meetings Act requires release of meeting minutes "promptly." N.J.S.A. 10:4-14. It is my understanding that minutes from the March 13, 2012 meeting have been approved and released.

Accordingly, I am satisfied that there has been no violation of the Open Public Meetings Act by Galloway Township and no further action will be taken by the Atlantic County Prosecutor's Office. Nevertheless, should you feel that a violation of the Open Public Meeting Act did in fact occur, you may institute a proceeding in lieu of prerogative writ in the Superior Court to challenge the action of the Township pursuant to N.J.S.A. 10:4-15.

Sincerely,



Diane M. Ruberton
Chief Assistant Prosecutor

cc: Roger Steedle, Esq. (Conflict Solicitor)